

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.  
RANDALL S. FORD**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD74099

DATE: May 29, 2012

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Appeal From:

Jackson County Circuit Court  
The Honorable Ann Mesle, Judge

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Appellate Judges:

Division Three: Thomas H. Newton, Presiding Judge, James M. Smart, Jr., Judge and Gary D. Witt, Judge

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Attorneys:

Shaun J. Mackelprang and Jennifer A. Wideman, Jefferson City, MO, for respondent.

Ruth B. Sanders, Kansas City, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**RANDALL S. FORD,**

**APPELLANT.**

No. WD74099

Jackson County

Before Division Three: Thomas H. Newton, Presiding Judge, James M. Smart, Jr., Judge and Gary D. Witt, Judge

Randall S. Ford appeals his convictions in the Circuit Court of Jackson County for burglary in the second degree, section 569.170, and possession of burglar's tools, section 569.180. Randall Ford was arrested in the basement of Stein and McClure Funeral Home early in the morning of June 16, 2010. The State alleged that Ford was responsible for the burglary of the Funeral Home and a Jiffy Lube business next door. The alarms at the Jiffy Lube and the Funeral Home were tripped several times in the early morning hours. The police drove by the Funeral Home around 3:00 a.m. in response to a call from the manager, but the police did not see anything suspicious at that time. After the manager observed suspicious activity later that morning after arriving at the Funeral Home, four officers were dispatched to the Funeral Home. Ford was found by the police in the Funeral Home wearing only shorts; he had no shoes or shirt. Ford told officers that his name was "Bradley Hillebrenner."

A backpack found near Ford contained pliers, a laptop computer, checkbooks belonging to the Funeral Home and a Kansas driver's license with the name "Bradley Hillebrenner." Photographs were taken at the crime scene including, Exhibits 40 and 41, which showed the contents of the backpack including; a cash box with money and keys in it, two screwdrivers, the Kansas driver's license and some electronics associated with the Funeral Home's phone or intercom system.

At trial, Ford testified that he did not enter the Funeral Home to steal anything; rather, he testified that had been forced to leave the house of a girl in great haste, when her boyfriend arrived to find him there with her. He did not have a regular place to live at this time. He saw the window to the basement of the Funeral Home was open. He was tired and he was worried about being seen by police walking around in only a pair of shorts, so he decided it would be a better idea to crawl into the Funeral Home basement and sleep for a couple of hours. He claimed he woke up when the police dog bit him and he never told police his name was "Bradley Hillebrenner."

The jury convicted Ford of Count III, burglary in the second degree regarding the Funeral Home, and Count V, possession of burglar's tools. The jury acquitted him of the burglary regarding the Jiffy Lube and both counts of stealing one from the Jiffy Lube and one from the Funeral Home. The court imposed concurrent sentences of four years imprisonment for each count for which he was convicted.

## **AFFIRMED**

Division Three holds:

In Point One, Ford argues the trial court erred in overruling his motion for judgment of acquittal at the close of all the evidence as to Count III, burglary in the second degree regarding the Funeral Home, because the State's evidence was insufficient to support a finding of guilt beyond a reasonable doubt for burglary in the second degree in that a reasonable jury, having acquitted Ford of stealing from the Funeral Home, could not have also found beyond a reasonable doubt that he entered the Funeral Home for the purpose of stealing.

A person commits the crime of burglary in the second degree when "he knowingly enters unlawfully [ . . . ] in a building or inhabitable structure for the purpose of committing a crime therein." Section 569.170. On appeal, Ford concedes there was sufficient evidence to find that he knowingly entered the Funeral Home unlawfully, as he admitted as much at trial. Ford argues, however, that there was not sufficient evidence that he entered the Funeral Home "for the purpose of committing a crime therein."

Sufficient evidence was adduced at trial to support the jury's conviction of burglary in the second degree from the Funeral Home and, specifically, that Ford entered the Funeral Home to commit a crime therein. The evidence showed that Ford was found hiding behind a furnace in the basement of the Funeral Home in the early hours of the morning after police were called to search the Funeral Home because the alarm system had been tripped multiple times throughout the night. There was a broken window leading into the basement. A black bag was found within Ford's reach that contained valuable property which had been moved from upstairs. Ford gave law enforcement a false name, which was the same name as appeared on a driver's license in the black bag and he did not have permission to be in the Funeral Home. This evidence is more than sufficient to support the jury's finding that Ford committed burglary in the second degree.

Point One is denied.

In Point Two, Ford argues the trial court erred in overruling his motion for judgment of acquittal at the close of all the evidence as to Count V, possession of burglar's tools, because the State's evidence was insufficient to support a finding of guilt beyond a reasonable doubt.

Section 569.180 requires proof that: (1) possession by the defendant of tools mentioned; (2) adaptability, design, or common use of the tools for committing or facilitating offenses involving forcible entry into premises; and (3) circumstances evincing an intent to use or employ, or allow the same to be used or employed, in the commission of an unlawful forcible entry into a building or inhabitable structure, or knowing that the same are intended to be used.

Ford had in his possession both pliers and screwdrivers. The circumstances in which Ford was found are sufficient to prove Ford's intent to use the pliers and screwdrivers as burglars' tools. The items were found in a black backpack near Ford where he had secreted himself behind a furnace in the basement of the Funeral Home. The Funeral Home had been broken into that night and had been ransacked as described. Ford was the only person found in the Funeral Home and his story as to why he was located in the Funeral Home could be generously described as suspect. Ford admitted he unlawfully entered the Funeral Home through a window he described as "open" but, as the evidence proved at trial, was in fact broken. The circumstantial evidence and inferences from the facts proved at trial support the finding that Ford had the intent to use the tools found in his possession to commit an unlawful forcible entry.

Point Two is denied.

The judgment of the circuit court is affirmed.

Opinion by Gary D. Witt, Judge

May 29, 2012

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